

REMARKS

Applicants have studied the Office Action dated July 5, 2005. No new matter has been added. By virtue of this amendment, claims 7-18 and 21-24 are pending. Reconsideration and further examination of the pending claims in view of the above amendments and the following remarks is respectfully requested.

In the Office Action, the Examiner:

- Rejected claims 7, 13, 15, 16, and 21-23 under 35 U.S.C. § 103(a) as being unpatentable over Dillon (US 6,337,911 B1) in view Schneier "Applied Cryptography" (1996), and further in view of Graunke et al. (US 5,991,399);
- Rejected claims 8-12, 14, and 24 under 35 U.S.C. § 103(a) as being unpatentable over Dillon (US 6,337,911 B1) in view Schneier "Applied Cryptography" (1996), and further in view of Graunke et al. (US 5,991,399) and further in view of Dillon (US 6,351,467 B1); and
- Rejected claims 17 and 18 under 35 U.S.C. § 103(a) as being unpatentable over Dillon (US 6,337, 911 B1) in view Schneier "Applied Cryptography" (1996), and further in view of Graunke et al. (US 5,991,399) and further in view of Horstmann (US 6,009,401).

Applicants submit that this response does not raise new issues in the application. It is submitted that the present response places the application in condition for allowance or, at least, presents the application in better form for appeal. Entry of the present response is therefore respectfully requested. Although the Applicants respectfully disagree with the Examiner's rejection of independent claims 7 and 21, the Applicants have elected to amend independent claims 7 and 21 solely for the purpose of expediting the patent application process in a manner consistent with PTO's Patent Business Goals (PBG), 65 Fed. Reg. 54603 (September 8, 2000).

Overview of the Present Invention

Preferred embodiments of the present invention are directed to a method and system for securely receiving content data on a user's system from a web broadcast infrastructure with a plurality of channels. The present invention provides an "emulator to enable a single player application of the encrypted content data to receive content data over the broadcast channel as if the single player application is receiving the encrypted content data from a telecommunication infrastructure, thereby enabling the single player application to perform the following steps regardless from where the encrypted content has been received" of

transferring to a trusted third party an encrypted first decrypting key, which has been encrypted with a second encrypting key of the trusted third party;

receiving the encrypted first decrypting key, which has been decrypted by the trusted third party and re-encrypted with a user's system key; and

decrypting, in a tamper resistant environment of the single player application, the encrypted first decrypting key with the user's system key.

The present invention provides the versatility of securely receiving digital content from a broadcast infrastructure and a telecommunications infrastructure e.g. internet with a single player application. Independent claims 7 and 21 have been amended to recite this language. Support for the language is found at FIG. 19 item 1912 and page 159 along with the original problem statement on page 8, lines 10-15. No new matter has been added.

Rejection Under 35 U.S.C. § 103(a)

As noted above, the Examiner rejected claims 7-18 and 21-24 in various combinations of under 35 U.S.C. § 103(a) as being unpatentable over Dillon (US 6,337,911 B1) in of Schneier "Applied Cryptography" (1996), and further in view of Graunke et al. (US 5,991,399) and in various combinations of Dillon '467 and Horstmann. Dillon '911, Schneier, Graunke, Dillon '467 and Horstmann are completely silent on "emulator to

enable a single player application of the encrypted content data to receive content data over the broadcast channel as if the single player application is receiving the encrypted content data from a telecommunication infrastructure, thereby enabling the single player application to perform the following steps regardless from where the encrypted content has been received. According independent claims 7 and 21 distinguish over Dillon '911, Schneier, Graunke, Dillon '467 and Horstmann for at least this reason.

Continuing further, when there is no suggestion or teaching in the prior art for "emulator to enable a single player application of the encrypted content data to receive content data over the broadcast channel as if the single player application is receiving the encrypted content data from a telecommunication infrastructure, thereby enabling the single player application to perform the following steps regardless from where the encrypted content has been received" the suggestion can not come from the Applicant's own specification. The Federal Circuit has repeatedly warned against using the Applicant's disclosure as a blueprint to reconstruct the claimed invention out of isolated teachings of the prior art. See MPEP §2143 and *Grain Processing Corp. v. American Maize-Products*, 840 F.2d 902, 907, 5 USPQ2d 1788 1792 (Fed. Cir. 1988) and *In re Fitch*, 972 F.2d 160, 12 USPQ2d 1780, 1783-84 (Fed. Cir. 1992). The prior art reference Dillon '911, Schneier, Graunke, Dillon '467 and Horstmann do not even suggest, teach nor mention an emulator to enable a single player application of the encrypted content data to receive content data over the broadcast channel as if the single player application is receiving the encrypted content data from a telecommunication infrastructure.

Very recently, the Federal Circuit again took up the identical question of Obviousness in combining references in the case *In re Sang Su Lee*, No. 00-1158 (January 18, 2002) *In re Sang Su Lee*, 277 F.3d 1338 (Fed. Cir. 2002). In this case, the Board of Patent Appeals rejected all of Applicant's pending claims as obvious under § 103. The Federal Circuit vacated and remanded. Citing two prior art references, the Board stated that a

person of ordinary skill in the art would have been motivated to combine the references based on "common knowledge" and "common sense," but it did not present any specific source or evidence in the art that would have otherwise suggested the combination. The Federal Circuit held that the Board's rejection of a need for any specific hint or suggestion in the art to combine the references was both legal error and arbitrary agency action subject to being set aside by the court under the Administrative Procedure Act (APA). The Applicants submit the present invention distinguishes over Dillon '911, Schneier, Graunke, Dillon '467 and Horstmann for at least this reason as well.

Independent claims 7 and 21 have been amended to distinguish over Dillon '911, Schneier, Graunke, Dillon '467 and Horstmann. Claims 8-18 and 22-24 depend from claims 7 and 21 respectively, since dependent claims contain all the limitations of the independent claims, claims 8-18 and 22-24 distinguish over Dillon '911, Schneier, Graunke, Dillon '467 and Horstmann, as well.

CONCLUSIONS

The remaining cited references have been reviewed and are not believed to effect the patentability of the claims as previously amended.

In light of the Office Action, Applicants believe these amendments serve a useful clarification purpose, and are desirable for clarification purposes, independent of patentability. Accordingly, Applicants respectfully submit that the claim amendments do not limit the range of any permissible equivalents.

Applicants acknowledge the continuing duty of candor and good faith to the disclosure of information known to be material to the examination of this application. In accordance with 37 CFR §§ 1.56, all such information is dutifully made of record. The

Docket No. SE9-99-020

Page 11 of 12

S/N 09/487,417

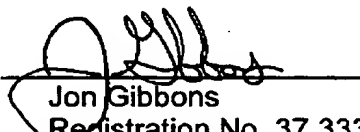
foreseeable equivalents of any territory surrendered by amendment is limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicants and their attorneys.

Applicants respectfully submit that all of the grounds for rejection stated in the Examiner's Office Action have been overcome, and that all claims in the application are allowable. No new matter has been added. It is believed that the application is now in condition for allowance, which allowance is respectfully requested.

PLEASE, if for any reason the Examiner finds the application other than in condition for allowance, the Examiner is invited to call either of the undersigned attorneys at (561) 989-9811 should the Examiner believe a telephone interview would advance the prosecution of the application.

Respectfully submitted,

Date: October 5, 2005

By: 
Jon Gibbons
Registration No. 37,333
Attorney for Applicants

FLEIT, KAIN, GIBBONS,
GUTMAN, BONGINI & BIANCO P.L.
One Boca Commerce Center, Suite 111
551 Northwest 77th Street
Boca Raton, FL 33487
Tel. (561) 989-9811
Fax (561) 989-9812